

## REMARKS

Claims 1 to 3, 5, 6, and 8 to 10 are pending in the application.

### **Claim Rejections - 35 U.S.C. 112**

Claims 1-3, 5, 6, 8-10 stand rejected under 35 U.S.C. 112, 2nd paragraph, for the reasons of record.

The claims have been revised in view of the examiner's remarks. It is believed that by defining first and second individual battery cells the arrangement of the cells is made clearer (first cells: 11, 12, 14; 11' 12', 14' arranged in a longitudinal row, respectively; second cells 13, 13' 15 arranged in a gap between the first cells within the widened portion). Care has been taken to avoid antecedence problems.

In regard to claim 1 and claim 10, the examiner states that the "support surface extending substantially in the longitudinal direction" and "the battery cells are arranged in the longitudinal direction" appear to be contradictory. This is not so. The claim language reads in regard to the battery cells that the battery cells "are arranged in the longitudinal direction of the protective housing sequentially behind one another in two parallel rows" - the reference to "longitudinal" relates to the row arrangement; the rows of cells extend in (or parallel to) the longitudinal direction. However, even though in applicant's opinion the original claim language appears to be definite, applicant has amended the claim language such that now it is set forth explicitly that the rows are extending in the longitudinal direction.

Claim 6 has been amended in view of the changes made to claim 1 in order to obviate the antecedence problems.

Reconsideration and withdrawal of the rejection of the claims pursuant to 35 USC 112 are therefore respectfully requested. Should the examiner still find the claim language indefinite, applicant would appreciate assistance from examiner in regard to correcting such problems.

### **Rejection under 35 U.S.C. 102**

Claims 1, 3, 5, 8-10 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Kumar et al. (US 6,018,227)*.

Claims 1-3, 5, 8-10 stand rejected under 35 U.S.C. 102(b) as being anticipated by

*Kopras (US 5,902,080).*

Claim 1 as amended concerns a battery pack with first individual battery cells that are arranged in two parallel rows. The first cell and the last cell of each row are positioned at the end faces of the protective housing. The gap between individual cells of the two rows (the gap that is shown in Fig. 3 as being filled by second battery cells 13, 13', 15 - the rows indicated schematically by dashed lines 27, 27' are interrupted) provide space for the second individual battery cells. The second individual battery cells are arranged in the gap in such a way that the support surface of the protective housing is wider in comparison to the portion of the support surface that is defined by the rows of the first individual battery cells.

Claim 10 relates to a battery pack in which the first individual cells are arranged in a row and, in an intermediate space or gap provided within the row arrangement of the first individual batteries cells, at least two second cells are arranged wherein one of the second cells is displaced laterally outwardly in such a way that in the space provided an additional second cell is arranged.

U.S. 6,018,227 shows in Fig. 9 a battery pack in which the individual cells are arranged in a hexagonal close packing (see remarks provided in the amendment submitted September 2, 2005, in relation to EXHIBIT A). Fig. 9 only schematically indicates the individual cells 276 by their partial circumferential surface. This arrangement clearly shows that the end face of the arrangement facing the viewer only has a single cell positioned thereat. Also, a row of first individual battery cells having a gap between two individual cells in which second cells are arranged is not disclosed in this reference. The reference shows a hexagonal close packing which is different from the configuration of the present invention as previously discussed in the amendment of September 2, 2005.

U.S. 5,902,080 shows a battery pack having a wide area and a narrow area. This reference neither discloses how many individual cells are provided within the battery pack nor does it teach how these individual cells are arranged. Especially, the reference does not show that on opposed end faces of the protective housing two individual battery cells are arranged (instant claim 1), respectively, and that a portion of the protective housing between the end faces and the battery cells arranged thereat is widened laterally outwardly

(i.e., leading to a cross-like arrangement as shown in Fig. 3).

Reconsideration and withdrawal of the rejection of the claims pursuant to 35 USC 102 are therefore respectfully requested.

### **CONCLUSION**

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **e-mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on August 1, 2006,

/Gudrun E. Hockett/

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